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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,885	03/13/2006	George Marmaropoulos	US030382US	2676

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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06/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/571,885	<b>Applicant(s)</b> MARMAROPOULOS, GEORGE	
	<b>Examiner</b> Cheryl Juska	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. The specification stands objected to as set forth in section 1 of the last Office Action (Non-Final Office Action mailed 01/08/08).
2. Applicant traverses said objection by asserting 37 CFR 1.77(c) does not require the specification subheadings, but rather only suggests the subheading format (Response, page 5, 8<sup>th</sup> paragraph). As such, applicant “respectfully declines to amend the disclosure to include the suggested headings at this time” (Response, page 5, 9<sup>th</sup> paragraph). While said subheadings are not mandatory, they are suggested, in part, for facilitation of locating pertinent information when the application is published as prior art. Note, in the present case, it is suggested applicant merely add subheadings for *Background of the Invention*, *Brief Summary of the Invention*, *Brief Description of Drawings*, and *Detailed Description of Invention*.

### ***Response to Arguments***

3. Applicant’s arguments, see page 6, filed March 24, 2008, with respect to the rejection of claims 1-4 under 102(b) by the Abrams reference (US 2003/0129353) have been fully considered and are persuasive. Therefore, the rejection set forth in section 3 of the last Office Action (Non-Final mailed 01/08/08) has been withdrawn. However, upon further consideration, a new prior art rejection is made below, as well as new 112, 2<sup>nd</sup> rejections.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11-19 are indefinite. Independent claims 11 and 18 require applying an electrostatic force to the conductive layer, thereby *forcing* furs on the surface of said conductive layer to extend in a vertical orientation. Hence, the claim is indefinite because it is unclear what the orientation of the plurality of furs is prior to applying said electrostatic force.

Claims 1-10 are similarly rejected since it is unclear that the furs are capable of reversibly or repeatedly changing orientations in response to the electrostatic field.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,077,116 issued to Lefkowitz.

Lefkowitz teaches a woven fabric base that flocked with fibers by first coating the surface of the base fabric with a conductive adhesive and then applying the fibers by known electrostatic

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flock application means (col. 7, lines 50-54). Lefkowitz states, “The flock fibers will at first be disposed principally in the vertical plane with respect to the fabric surface. Subsequent treatment with heat and pressure is needed to consolidate the flock into the permanently adhered transverse oriented porous sheet contact layer of the invention.”

Hence, Lefkowitz teaches a base fabric layer (14) having an adhesive conductive layer (12) for passing an electrostatic field and a plurality of flock (16) on the surface thereof which is responsive to said electrostatic field to extend out of the fabric layer in a substantially vertical orientation. In other words, the process of making and the intermediate product of the Lefkowitz invention anticipate applicant’s claim 1, with the exception that said vertical orientation reveals the surface color of the base fabric. However, this feature of revealing surface color is deemed inherent to the vertical orientation of said intermediate product. Therefore, claim 1 is rejected as being anticipated by Lefkowitz.

Regarding claim 3, it is asserted the limitations thereof are inherent to the known electrostatic flocking methods disclosed by Lefkowitz.

With respect to claim 4, it is argued that the conductive adhesive layer of Lefkowitz is capable as serving as a coupling to a power source. Note applicant merely recites functional language without positively reciting a power source in claim 4. As such, said claim is also anticipated.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Lefkowitz reference.

While Lefkowitz fails to teach the fabric layer includes a plurality of predetermined color pattern surfaces, claim 2 is rejected as being obvious over the reference. Color patterns on fabrics are not structural or chemical features which can differentiate one invention from another. Note, it has been held that matters relating to ornamentation only which have no mechanical function cannot serve to patentably distinguish the claimed invention from the prior art. *In re Seid*, 73 USPQ 431. Therefore, claim 2 is rejected as being obvious over the cited prior art.

#### ***Allowable Subject Matter***

10. Claims 5-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 11-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action.

12. The prior art fails to teach or suggest an upstanding flock fabric that is coupled to a circuit integrated in a garment or furniture. Additionally, the prior art fails to teach or suggest methods of dressing a person in said garment or integrating said flock fabric in furniture and then selectively providing an electrostatic force to a selected region of the conductive flock to force the fibers to stand upright.

***Conclusion***

13. The art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*/Cheryl Juska/*  
Primary Examiner  
Art Unit 1794